

Exhibit R



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Transcript of David Wise

Date: January 31, 2025

Case: Headwater Research LLC -v- AT&T Services, Inc., et al.

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Transcript of David Wise
Conducted on January 31, 2025

1 (1 to 4)

	1	3
1	IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS MARSHALL DIVISION	
2		
3	HEADWATER RESEARCH LLC,)	1 APPEARANCES
4	Plaintiff,)	2 (ALL APPEARING VIA ZOOM VIDEOCONFERENCE)
5) CASE NO.: VS.) 2:23-cv-00397-JRG-RSP	3 ON BEHALF OF THE PLAINTIFFS:
6	AT&T SERVICES, INC.,) Lead Case	4 KRIS DAVIS, ESQUIRE 5 Russ, August & Kabat, LLP 6 8088 N. Central Expressway Dallas, Texas 75206 7 310.826.7474
7	AT&T MOBILITY, LLC, AND)	
8	AT&T CORP.,)	
9	Defendants.)	8 ON BEHALF OF THE DEFENDANTS:
10	HEADWATER RESEARCH LLC,)	9 SCOTT HEJNY, ESQUIRE 10 McKool Smith 11 303 Colorado Street Suite 2100 Austin, Texas 78701 12 512.692.8700
11	Plaintiff,)	
12) CASE NO.: VS.) 2:23-cv-00398-JRG-RSP	
13	AT&T SERVICES, INC.,)	13 ON BEHALF OF THE WITNESS:
14	AT&T MOBILITY, LLC, AND)	14 DAVID KAYS, ESQUIRE 15 Morgan, Franich, Fredkin Siamas & Kays LLP 16 333 W. San Carlos Street Suite 1050 San Jose, CA 95110 17 408.288.8288
15	AT&T CORP.,)	
16	Defendants.)	
17	-----	
18	ORAL, REALTIMED, VIDEOTAPED DEPOSITION OF DAVID WISE	
19	JANUARY 31, 2025	19 ALSO PRESENT:
20	-----	20 Lawrence Wallace, Videographer Charlie McGrath, Video Tech
21		
22	JOB NO.: 570073	21
23	PAGES: 1 - 77	
24	REPORTED BY: ANNETTE PELTIER	
25		
	2	4
1	ORAL, REALTIMED, VIDEOTAPED DEPOSITION OF DAVID WISE, produced as a witness at the instance	1 Index
2	of the Defendants, and duly sworn, was taken in	2 Page
3	the above-styled and numbered cause on	3 Appearances..... 3
4	January 31, 2025, from 12:03 p.m. to 1:54 p.m.,	4 Examination by Mr. Hejny..... 8
5	before Annette Peltier, CSR, Texas Certified	5 Examination by Mr. Davis..... 71
6	Realtime Reporter, in and for the State of Texas,	6 Adjournment..... 73
7	reported by machine shorthand pursuant to the	7 Signature Page..... 74
8	Federal Rules of Civil Procedure and the	8 Court Reporter's Certificate..... 75
9	provisions stated on the record or attached	
10	hereto.	9 Number Description Exhibits
11		10 Exhibit 1 Deposition Notice..... 11
12		11 Exhibit 2 David Wise LinkedIn..... 13
13		12 Exhibit 3 Raleigh Invention Disclosure, Confidentiality & Proprietary Rights Agreement (HW397-00094026-31)..... 20
14		13 Exhibit 4 January 2009 Raleigh and Paul Jacobs E-Mails (HW397-00102740-41)..... 24
15		14 Exhibit 5 2009.01.22 QC-HW Partners NDA (HW397-00102740-41)..... 29
16		15 Exhibit 6 3.4.2009 E-Mail (HW397-00051416)..... 34
17		16 Exhibit 7 2.25.2009 ItsOn PowerPoint To QC on Best Buy E2E (HW397-00018717-31)..... 40
18		17 Exhibit 8 2009.04.21 re: ItsOn (HW397-00051418-20)..... 44
19		18 Exhibit 9 2009.05.06 Patent Application (HW397-00051421)..... 53
20		19 Exhibit 10 2009.05.07 Moving Forward (HW397-00051422)..... 56
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1	Exhibit 11 2009.05.19 Release (HW397-00051424-27).....	60
2	Exhibit 12 June 24, 2009 Qualcomm E-Mail On Release Redlines (HW397-00102742).....	66
3	Exhibit 13 2009.09.03 Qualcomm's Proposal (HW397-00051423).....	68

* * * *

5

1 Services, Inc., et al, in the United States
2 District Court for the Eastern District of Texas,
3 Marshall Division, Case Number
4 2:23-cv-397-JRG-RSP.

5 Today's date is January 31st,
6 2025. The time on the video monitor is
7 2:04 [sic] p.m. Central time.

8 The remote videographer today is
9 Lawrence Wallace, representing Planet Depos.
10 All parties of this video
11 deposition are attending remotely.

12 Would counsel please
13 voice-identify themselves and state whom they
14 represent.

15 MR. HEJNY: Scott Hejny from
16 McKool Smith on behalf of AT&T.
17 MR. DAVIS: Kris Davis from Russ,
18 August & Kabat on behalf of Headwater Research,
19 LLC.

20 MR. KAYS: David Kays on behalf of
21 the witness, David Wise.

22 THE VIDEOGRAPHER: All right. The
23 court reporter today is Annette Peltier,
24 representing Planet Depos.

25 The witness will now be sworn.

6
1 EXHIBIT TECH: Thank you to
2 everyone for attending this proceeding remotely,
3 which we anticipate will run smoothly.

4 Please remember to speak slowly
5 and do your best not to talk over one another.

6 Please be aware that we are
7 recording this proceeding for backup purposes.

8 Any off-the-record discussions
9 should be had away from the computer.

10 Please remember to mute your mic
11 for those conversations.

12 Please have your video enabled to
13 help the reporter identify who is speaking. If
14 you are unable to connect with video and are
15 connecting via phone, please identify yourself
16 each time before speaking.

17 I apologize in advance for any
18 technical-related interruptions.

19 Thank you.

20 THE VIDEOGRAPHER: All right.
21 Everyone please stand by to be read onto the
22 video record.

23 Here begins media number one in
24 the videotaped deposition of David Wise in the
25 matter of Headwater Research, LLC, versus AT&T

7

8
1 DAVID WISE,
2 Having been first duly sworn, testified upon his
3 oath as follows:

4 EXAMINATION

5 BY MR. HEJNY:

6 Q. Good morning, Mr. Wise.

7 A. **Good morning.**

8 Q. So you -- you mentioned before we started
9 that you'd been deposed before, correct?

10 A. Yes.

11 Q. Okay. So I'll walk through some
12 guidelines here in a minute, but obviously this
13 is your first remote depo.

14 Are you alone in the room where you're
15 being deposed now?

16 A. Yes.

17 Q. Do you have any documents in front of you
18 or pulled up on your computer screen?

19 A. No.

20 Q. Great.

21 How many times have you been deposed
22 before?

23 A. Three.

24 Q. When was the last time you were deposed --
25 I guess the most recent deposition?

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9 (33 to 36)

	33		35
1	years ago, so I don't, sorry.	1	the Bates number on this document is
2	Q. Understood.	2	HW397-0051416.
3	Do you recall any conversations	3	Q. (BY MR. HEJNY) And just for your
4	with -- with Dr. Raleigh or Headwater following	4	edification, mimoguy@mac.com, that e-mail address
5	the entry of this nondisclosure agreement	5	is the e-mail address for Greg Raleigh. Okay?
6	regarding the potential partnership between	6	A. Okay.
7	Headwater and Qualcomm?	7	Q. Who was Gina Lombardi?
8	A. No.	8	A. She was a senior executive at the company,
9	Q. Do you recall any meetings with Headwater	9	at Qualcomm, at the time.
10	10 or Dr. Raleigh?	10	Q. And what was her role at the company?
11	A. I don't recall any, no.	11	A. I honestly don't recall.
12	Q. Do you recall any discussions as to	12	Q. Do you recall why you and Ms. Lombardi
13	whether Dr. Raleigh had filed or intended to file	13	were teamed to work on this discussion with
14	a patent application in January 2009 that would	14	Dr. Raleigh and Jim Straight?
15	15 impact the relationship between Headwater and	15	A. Yeah. Let me just read this real quick.
16	16 Qualcomm?	16	Q. Yeah, please. Any -- and just for the
17	MR. KAYS: And just point of	17	record, Mr. Wise, any time I put a document in
18	clarification, Counsel, your -- discussions with	18	front of you, you know, take your time and read
19	Mr. Raleigh? Is that -- is that the intent of	19	through it; and I should have instructed you on
20	20 the question?	20	that earlier. So please take a look, read
21	MR. HEJNY: Yes. Do you recall	21	through the e-mail, and then we can ask
22	any --	22	questions.
23	MR. KAYS: Okay.	23	A. Okay. I'm sorry, can you repeat the
24	MR. HEJNY: I'll restate the	24	question?
25	question.	25	Q. Sure. Let me step back and ask you a
	34		36
1	MR. KAYS: Thank you.	1	different question.
2	Q. (BY MR. HEJNY) Do you recall any	2	The subject says, "ItsOn Next Steps."
3	conversations with Headwater or Dr. Raleigh	3	Are you familiar with an entity or a
4	regarding the filing of a patent application in	4	company called "ItsOn"?
5	5 January of 2009 that may have had some bearing on	5	A. I recall the name, yes.
6	6 the relationship between Headwater, Dr. Raleigh,	6	Q. Were you aware that Dr. Raleigh formed
7	7 and Qualcomm?	7	ItsOn before he left Qualcomm in September
8	A. I don't recall.	8	8 of 2008?
9	Q. Do you recall a potential intellectual	9	A. No.
10	10 property ownership dispute between Dr. Raleigh	10	Q. Are you -- were you aware that ItsOn was a
11	11 and Qualcomm?	11	11 company that was owned by Dr. Raleigh?
12	A. No.	12	A. Yes.
13	Q. Do you know anything at all about patent	13	Q. And my first question was, do you recall
14	14 applications that were filed by Dr. Raleigh?	14	why you and Ms. Lombardi were teamed together to
15	A. No.	15	work on this discussion with Dr. Raleigh and
16	Q. Okay. Let's move on to Exhibit 6, please.	16	16 Mr. Straight?
17	(Whereupon Exhibit Number 6 was	17	A. Only that I assume it's -- based on this
18	marked for identification.)	18	e-mail, it's a follow-up to the -- you know,
19	Q. (BY MR. HEJNY) Okay. Exhibit 6 is a	19	evaluating whether there was anything to be --
20	20 March 4, 2009, e-mail from Gina Lombardi to Greg	20	20 (garbled audio).
21	21 Raleigh and Jim Straight and you are copied in	21	THE COURT REPORTER: I'm sorry,
22	22 that e-mail.	22	sir. Anything to be what?
23	Do you see that, Mr. Wise?	23	THE WITNESS: Anything to be done
24	A. Yes.	24	evaluating a partnership with the company, with
25	MR. HEJNY: And for the record,	25	ItsOn.

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12 (45 to 48)

	45	
1	last page. There.	1 commercialization of ItsOn software on Qualcomm
2	Okay. So this is an April 21st, 2009,	2 chips?
3	e-mail from Gina Lombardi to Jim Straight and	3 A. Yes.
4	Greg Raleigh, and you see that you're -- you are	4 Q. And the last item in that list is
5	copied on this e-mail, as well, correct?	5 "resolution of IP ownership issue."
6	A. Yes. Let me -- let me just read it.	6 Do you see that?
7	Q. Yeah, sure.	7 A. Yes.
8	A. Okay.	8 Q. And I asked you before if you recalled a
9	Q. Okay. Can you see that the -- the e-mail,	9 dispute between Dr. Raleigh and Qualcomm
10	which is -- has the subject of "ItsOn," in the	10 regarding an IP ownership issue.
11	body of the e-mail, there's something called a	11 Does this refresh your recollection?
12	"Seed Investment."	12 A. No.
13	Do you see that?	13 Q. So as you sit here today, you have no
14	A. Yes.	14 recollection whatsoever of the ownership interest
15	Q. And was this an offer by Qualcomm to	15 dispute between Dr. Raleigh and Qualcomm?
16	invest in ItsOn?	16 A. Honestly, I don't.
17	A. Looks to be, yes.	17 MR. HEJNY: Let's move up to the
18	Q. Do you recall this e-mail or this	18 next e-mail in the chain, please.
19	potential investment by Qualcomm in ItsOn?	19 Q. (BY MR. HEJNY) And this e-mail begins at
20	A. Beyond the e-mail, no.	20 the bottom of Bates 418.
21	Q. But in the e-mail, it looks like Qualcomm	21 And so this is an e-mail from Jim
22	was willing to invest \$2 million plus a license	22 Straight, who is at Headwater, to Gina Lombardi
23	to the relevant Qualcomm IP for a 20 percent	23 and Greg Raleigh and you are copied.
24	stake.	24 Do you see that?
25	Do you see that?	25 A. Yes.
	46	
1	A. Yes.	1 Q. And it looks like in this portion of -- of
2	Q. And presumably that's a 20 percent stake	2 the process, there is a due diligence going on.
3	in ItsOn, correct?	3 Do you see that?
4	A. I believe so.	4 A. Can I just read the e-mail?
5	Q. And what is a "1X liquidation preference"?	5 Q. Yeah, please. Please take your time and
6	A. It's a -- a term associated with an	6 read the e-mail.
7	investment in a private company.	7 THE WITNESS: And can you just
8	Q. And can you explain it to me, how it would	8 scroll up a little bit on it, so we can... yeah,
9	relate to this potential agreement with ItsOn?	9 that's good. Thanks.
10	A. It would be some sort of protection over	10 Okay. Can you scroll back up a
11	the two-million-dollar investment in a	11 little bit now? Okay.
12	liquidation.	12 Q. (BY MR. HEJNY) So in this e-mail,
13	Q. And what is a "full ratchet	13 Mr. Straight from Headwater identifies
14	anti-dilution"?	14 diligence -- a diligence items action list.
15	A. Another term in venture investments,	15 Do you see that?
16	private companies, around protecting the value of	16 A. Yes.
17	our investment going forward as new money comes	17 Q. And do you recall any meetings with
18	in.	18 Headwater or Dr. Raleigh in which the seed
19	Q. So it would protect Qualcomm's 20 percent	19 investment from the first e-mail was discussed in
20	stake?	20 detail?
21	A. Right.	21 A. I don't.
22	Q. And prevent it from being diluted?	22 Q. And item (1) on the diligence items action
23	A. Yes.	23 list states that, "This week Qualcomm will
24	Q. And it looks like in this seed investment,	24 transmit to ItsOn/HPI the potential prior art
25	Qualcomm would be committing to support	25 search results that Qualcomm believes to be

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13 (49 to 52)

	49		51
1	relevant."	1	question potentially invades the attorney/client
2	You see that?	2	privilege, so...
3	A. Yes.	3	A. I don't recall anything.
4	Q. Do you know what "prior art" is, Mr. Wise?	4	Q. (BY MR. HEJNY) Do you recall when
5	A. Not [sic] familiar with the term.	5	Qualcomm first informed Dr. Raleigh that it
6	Q. So you don't understand the term "prior	6	believed it owned some portion of ItsOn's IP?
7	art" from a -- from a patent or an IP standpoint?	7	A. No.
8	A. No. I said I'm familiar with the term.	8	Q. Do you understand that Qualcomm
9	Q. Oh, I'm sorry. I misunderstood you.	9	consistently maintained that it had an ownership
10	Do you know whether Qualcomm ever sent	10	interest in ItsOn's IP?
11	ItsOn or Headwaters the results of any prior art	11	MR. DAVIS: Objection, form.
12	search that was conducted as part of this	12	A. I don't recall beyond what we're seeing in
13	process?	13	some of these e-mails.
14	A. Not beyond what we -- what's said here in	14	Q. (BY MR. HEJNY) Do you recall any
15	the e-mail.	15	discussions internally at Qualcomm as to when
16	MR. HEJNY: And let's scroll down	16	Dr. Raleigh first invented the IP in question?
17	to item (4). Maybe scroll up to item four,	17	A. No.
18	sorry. It's on the next page.	18	Q. And going to the very first e-mail on the
19	Q. (BY MR. HEJNY) Item (4) says, the "Next	19	first page --
20	week, Qualcomm and ItsOn/HPI will have a	20	A. Can you hang on one second?
21	face-to-face meeting same day or next morning	21	Q. Yes, please. Take your time.
22	immediately after meetings listed in diligence	22	A. I'm sorry, can you repeat the question?
23	items (2) and (3) for Qualcomm to disclose to	23	MR. HEJNY: Can you read back the
24	ItsOn/HPI the facts, documents, and any other	24	question, please?
25	information that Qualcomm possesses that Qualcomm	25	(Discussion with the court
	50		52
1	believes support the Qualcomm claim that it may	1	reporter, clarifying read-back.)
2	own some" or -- "some portion of ItsOn's IP."	2	MR. KAYS: I don't think you'd
3	Do you see that?	3	asked a question.
4	A. Yes.	4	THE COURT REPORTER: Right.
5	Q. Do you recall discussions with Dr. Raleigh	5	MR. HEJNY: Let's just go back --
6	or Ms. Lombardi regarding this ownership issue,	6	I just want to make sure.
7	Mr. Wise?	7	THE WITNESS: Okay.
8	A. I don't.	8	MR. HEJNY: Let's go back to --
9	Q. Do you recall the facts, documents, and	9	THE WITNESS: I'm sorry about
10	any other information that Qualcomm possessed	10	10 that.
11	suggesting that it may own some portion of	11	MR. HEJNY: I just want to make
12	ItsOn's IP?	12	12 sure that I didn't leave something hanging.
13	A. I don't recall, beyond this e-mail.	13	(Whereupon the requested testimony
14	Q. Do you know if this meeting ever took	14	was read back as follows:
15	place, this face-to-face meeting?	15	"Do you recall any discussions
16	A. I don't know. No reason to assume it	16	internally at Qualcomm as to when
17	didn't, but I don't know.	17	Dr. Raleigh first invented the IP
18	Q. Do you recall, regardless of whether this	18	in question?
19	meeting took place, any -- any other evidence or	19	A. No.")
20	information that Qualcomm had that led it to	20	Q. (BY MR. HEJNY) And going to the very
21	believe that it owned some portion of ItsOn's IP?	21	first e-mail on the first page of this string...
22	MR. KAYS: Again, I'll advise the	22	MR. HEJNY: Can you scroll up just
23	witness that to the extent such evidence or	23	a little bit? There we go.
24	knowledge was communicated to Headwater, that's	24	Q. (BY MR. HEJNY) And so this is the first
25	fair game, but as -- as framed, it -- the	25	e-mail in the string, April 24th, 2009, from Gina